

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE

In re:)
)
CHRISTOPHER C. DONIGIAN d/b/a)
Emcon Builders and)
SANDRA C. DONIGIAN)
Debtors)
)
)
)

)
)
LAWRENCE P. SUMSKI)
)
Chapter 13 Trustee,)
)
v.)
)
JACOB DONIGIAN and)
DONIGIAN PROPERTIES, LLC,)
)
Defendants)
)

Chapter 13
Case No. 08-12455-JMD

Adv. Proc. No. 10-1098-LHK

DEFENDANTS' INITIAL RULE 26 DISCLOSURES

Defendants Jacob Donigian and Donigian Properties, LLC, by their attorney Keri J. Marshall, Esq., hereby submit pursuant to FRPC 26(a)(1), LBR 7026-1(a)(1), and this Court's Pretrial Scheduling Order, their initial disclosures based on the information reasonably available to them at this time. Defendants reserve the right to supplement these disclosures as set forth herein and as new information is made available to them.

**A. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION THAT
DEFENDANTS MAY USE TO SUPPORT THEIR CLAIMS OR DEFENSES,
UNLESS USED SOLELY FOR IMPEACHMENT**

Defendants have identified to date the following individuals who are likely to have or may have discoverable information that may used to support their claims or defenses:

1. Christopher C. Donigian, Debtor
200 Chester Road
Fremont, NH 03044
2. Jacob Donigian
134 Chester Road
Fremont, NH 03044
3. Sandra Donigian
200 Chester Road
Fremont, NH 03044
4. Edward R. (Ted) Adams, Builder
16 Flosom Road
Derry, NH 03038
603-765-5601
5. John Woods, Jr., Builder
11 Donovan Drive
Derry, NH 03038
6. Russell Downing, Builder
63 Pineo Road
Center Barnstead, NH 03225
603-234-9757
7. Peter Bornstein
8. Kevin Hatch
9. Philip Wilson
10. Robert Quandt
11. Peter Stevens
400 Amherst Street
Manchester, NH 03104
12. Steve DeFusco
7 Austin Street
Methuen, MA 01844

13. Charles Wright
65 Great Oak Drive
Chester, NH 03036
14. Jason Wright
65 Great Oak Drive
Chester, NH 03036
15. Tammy Mousseau, President
Mooswa Realty Corp.
7A Beauty Hill Road
Center Barnstead, NH 03225
603-269-6400

The above-identified individuals are likely to have knowledge regarding the facts and circumstances surrounding the defendants' business dealings and practices.

**B. DOCUMENTS OR THINGS IN THE POSSESSION OF DEBTOR
THAT MAY BE USED TO SUPPORT HIS CLAIMS OR DEFENSES**

Defendants have identified to date the following categories of documents, date compilations and tangible things in their possession, custody or control that may be used to support their claims or defenses:

- 1 Bank Statements of the Debtor and Defendants;
- 2 Copies of the following Deeds:
 - A. Wes Lock Road, Barnstead, New Hampshire: Warranty Deed from Jacob A. Donigian and Janice A. Donigian to Christopher C. Donigian, dated April 26, 2004 and recorded in Belknap County Registry of Deeds in Book 2031, Page 0027;
 - B. Wes Lock Road, Barnstead, New Hampshire: Warranty Deed from Christopher C. Donigian to Jacob A. Donigian, dated May 15, 2006 and recorded in Belknap County Registry of Deeds in Book 2510, Page 0112;
 - C. 32 Chestnut Drive, Allenstown, New Hampshire: Warranty Deed from Donigian Properties, a/k/a Donigian Properties to Christopher C. Donigian, dated October 20, 2006 and recorded in Merrimack County Registry of Deeds in Book 2937, Page 1172;

- D. 32 Chestnut Drive, Allenstown, New Hampshire: Warranty Deed from Christopher C. Donigian to Brian Pampel and Melanie Pampel, dated November 30, 2006 and recorded in Merrimack County Registry of Deeds in Book 2949, Page 1325;
 - E. 39 Chestnut Drive, Allenstown, New Hampshire: Warranty Deed from Donigian Properties, LLC a/k/a Donigian Properties, dated June 25, 2007 and recorded in Merrimack County Registry of Deeds in Book 3015, Page 381;
 - F. 39 Chestnut Drive, Allenstown, New Hampshire: Corrective Deed from Donigian Properties, LLC a/k/a Donigian Properties, dated June 25, 2007 and recorded in Merrimack County Registry of Deeds in Book 3017, Page 1228; and
 - G. 39 Chestnut Drive, Allenstown, New Hampshire: Warranty Deed from Christopher C. Donigian to Kevin M. Lussier and Nicole R. Boucher, dated September 5, 2007 and recorded in Merrimack County Registry of Deeds in Book 3016, Page 1513;
- (3) Copy of 2006 Tax Return;
 - (4) Copy of 2007 Tax Return;
 - (5) Copy of 2007 Profit and Loss for Christopher Donigian;
 - (6) Copy of 2007 Profit and Loss for Sandra Donigian;
 - (7) Copy of 2007 Self Employment Tax for Christopher Donigian;
 - (8) Copy of Mortgage Deed for Lot #16 Wes Lock Road, Barnstead, NH;
 - (9) Copy of Promissory Note for Lot #16 Wes Lock Road, Barnstead, NH;
 - (10) Copy of P&S Agreement for 16 Wes Lock Road, R. Downing Quality Homes/Crowley, October 14, 2006;
 - (11) Copy of Mortgage from Crowleys to Donigian Properties for 16 Wes Lock Road, November 29, 2006;
 - (12) Copy of Authorization For Release of Deposit, June 21, 2007;
 - (13) Settlement Agreement for 16 Wes Lock Road, June 9, 2008;
 - (14) Discharge of Crowley Mortgage for 16 Wes Lock Road, June 10, 2008;
 - (15) Copy of Warranty Deed for Hemlock Knoll in Chester, NH;
 - (16) Copy of closing costs for 32 Chestnut Drive, Allenstown, NH;

- (17) Copy of Settlement Statement for 32 Chestnut Drive, Allenstown, NH;
- (18) Copy of Warranty Deed for Lot 31 Chestnut Drive, Allenstown, NH;
- (19) Copy of Real Estate Transfer Tax Declaration for 32 Chestnut Drive, Allenstown, NH;
- (20) Copy Department of Revenue Administration Inventory of Property Transfer for Routes 111A and 107, Fremont NH, with Instruction Sheet;
- (21) Copy of Warranty Deed for Lot 12, Chestnut Drive, Allenstown, NH;
- (22) Copy of Settlement Statement for 106 Danville Road, Fremont, NH;
- (23) Settlement Statement for 58 Danville Road, Fremont, NH;
- (24) Copies of any other documents relating to transfers of the above-identified deeds to or from Defendants and/or Debtor;
- (25) Copies of any documents relating to business transactions between Debtor or Defendants and any party listed in part A, above;
- (26) Copies of payoff sheets, deeds, loan invoices, deposit receipts, construction loan format sheets, Purchase and Sale Agreements, payment sheets, discharge of mortgages, HUD statements and any other documents relating to transactions between defendants and ERA construction, including documents relating to transactions including at least Knowles Mill Lots No. 1, 3, 9, 10, 11, 12 13, 17, 18 and 27 and Sycamore Avenue Lots 17, 20, 22, 24 and 26.
- (27) Copy of Debtors' Bankruptcy Schedules and amendments thereto;
- (28) All documents provided to the Office of the US Trustee; and
- (29) Transcript from the Debtors' 341 meetings, October, 2008 and January, 2009 and from the October, 2009 Chapter 13 341 Meeting. These documents are located at the office of the Debtor's counsel and/or in the possession of the Debtor.

C. COMPUTATION OF DAMAGES.

The Debtors have affirmatively cooperated with the Trustee in Bankruptcy with regard to any and all requests for information regarding Debtor's schedules. The Debtor filed an Amendment of his schedules in good faith in an attempt to clarify his bankruptcy filing. The Debtors has attended two (2) section 341 meetings with the Chapter 7 Trustee, one (1) section

341 Meeting with the Chapter 13 Trustee and the office of the US Trustee, and responded to all of the questions. The Debtor provided all of the documents requested by the Chapter 7 Trustee and the Office of the US Trustee. Nothing that the Debtor has done in filing his bankruptcy has been with the intent to provide false information and false statements. The Debtor's actions in fully cooperating with the Trustee in Bankruptcy and the Office of the US Trustee evidence the Debtor's good faith in filing bankruptcy and a lack of intent necessary for Plaintiff's adversary to survive a motion to dismiss or a motion for summary judgment. The existence of mistakes or inaccuracy does not support the findings of intent necessary for Plaintiff to succeed on the merits of this claim for denial of discharge in bankruptcy. Any transfers made by Debtor were made in the ordinary course of business or financial affairs of the Debtor/Defendant. There is no basis for avoiding transfers of the Debtors in bankruptcy. The actions of the Debtor Christopher C. Donigan d/b/a Emcon Builders does not satisfy the elements of 11 U.S.C. §§105, 502, 542, 544, 547, 548 and 550 and Bankruptcy Rule 7001 et. seq., to avoid certain transfers made by the Debtor to his father, Jacob A. Donigian and his father's company, Donigian Properties, LLC, a/k/a Donigian Properties.

D. INSURANCE AGREEMENTS

Not applicable.

Date: September 6, 2011

Respectfully Submitted
Jacob Donigian and
Donigian Properties, LLC,
By their attorney,

/s/ Keri J. Marshall
Keri J. Marshall, Esq.
BNH 03171
Marshall Law, PLLC

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